

[PRESIDENTIAL DECREE NO. 790, August 30, 1975]

FURTHER AMENDING SECTIONS SIX AND TWELVE OF REPUBLIC ACT NUMBERED SEVENTEEN HUNDRED AND EIGHTY-NINE, AS AMENDED, OTHERWISE KNOWN AS THE REPARATIONS LAW.

WHEREAS, Section 6 and 12 of Republic Act No. 1789, as amended, require private end-users of reparations goods and services to put up collaterals sufficient to cover the cost thereof and/or the amount of their restructured accounts;

WHEREAS, said sections of the law further require private end-users to pay an interest of 12% per annum on the cost of the goods and services payable in installments and/or the amount of their restructured accounts;

WHEREAS, said private end-users find it difficult to comply with said requirements considering that they also have to obtain further financing from other sources for the putting up and operation of their projects;

WHEREAS, a relaxation of said requirements would greatly help private end-users in the successful prosecution of their projects, thus enabling them to contribute to the economic progress of the country; and

WHEREAS, it is the policy of the Government to assist and promote private industry to enable them to help in the building up of the national economy.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order the amendment of Sections 6 and 12 of Republic Act No. 1789, as amended, as follows:

SECTION 1. The following portion of Paragraph (a-1) of Section 6 of Republic Act No. 1789, as amended, relative to the putting up of collaterals, is hereby amended to read as follows:

"SEC. 6. (a-1) To issue procurement orders for the acquisition of reparations goods and/or services on the basis of the agreed schedule. The procurement order shall specify, among others, the following: (1) the name of the applicant end-users; (2) the item in the agreed schedule; (3) the name of the project; (4) the amount of the procurement order; and (5) the date of issuance of the procurement order. The amount of each procurement order shall be strictly in accordance with the allocation for each project as agreed upon between the Philippine and Japanese Governments. The procurement orders for all the projects shall be issued only after the conclusion of the agreed schedule. No procurement order for the acquisition of goods and/or services intended for government agencies shall be issued by the Commission until after it shall have duly ascertained and verified that the agencies concerned have (1) the capacity and have duly provided for the payment of the 2% service fee and all incidental charges in connection with procurement and delivery of the goods and/or services, and (2) the technical capacity to take delivery and utilize efficiently the goods applied for, and unless all the following conditions shall have been previously complied with: (1) the government

agency concerned must have previously prepared and submitted to the satisfaction of the Commission a financial, economic and technological study concerning the feasibility of the project together with the complete plans and specifications thereof; (2) the application must have been previously approved by resolution of the Commission; (3) the project must be among those specifically included in the reparations schedule agreed upon and effective between the Philippine and Japanese Governments at the time of the issuance of the procurement order; and (4) the agreed schedule showing the names of the applicant end-users must have been published in accordance with this Act. No procurement order for the acquisition of reparations goods and/or services intended for private parties shall be issued by the Commission until after it shall have duly ascertained and verified that the applicant concerned (1) has enough financial resources and capacity to pay, and (2) has the technical capacity to take delivery and utilize efficiently the goods applied for, and unless all the following conditions shall have been previously complied with: (1) the private applicant end-users concerned must have previously prepared and submitted to the satisfaction of the Commission a financial, economic and technological study of the project together with the complete plans and specifications thereof favorably endorsed as prescribed in Section two of this Act, and a certification from the Securities and Exchange Commission or the Bureau of Commerce, as the case may be, attesting that the applicant end-user concerned is qualified under this Act; (2) the application must have been previously approved by resolution of the Commission; (3) the project concerned must be among those specifically included in the reparations schedule agreed upon and effective between the Philippine and Japanese Governments at the time of issuance of the procurement order: *Provided*, That no procurement order shall be issued until after the private applicant end-user concerned shall have made a cash down payment for the project applied for which shall be 5% of the value of the project computed at the current rate of exchange of the peso to the U.S. dollar prevailing at the time of payment; and (4) the agreed schedule showing the names of the applicant end-users must have been published in accordance with this Act. The private applicant shall be required to submit proof to substantiate that both his financial resources and capacity to pay are commensurate with the value of the goods and/or services applied for, and that he has had experience or has contracted an appropriate number of experts in the particular field. He shall also be required *to obligate himself to put up the performance bond specified in Section 12-A of this Act before the delivery of the goods and/or services: Provided, further*, That in the case of corporations, the principal officers thereof shall be required to sign a guarantee contract whereby they shall be jointly and severally liable with the corporation to answer for the obligation so contracted. Notwithstanding the foregoing, no procurement order shall take effect until after the lapse of one week after its final publication indicating the name and address of the applicant end-user, the name of the project subject of the procurement order, and the specific item in the reparation schedule agreed upon and effective between the Philippine and Japanese Governments at the time of issuance of the procurement order, three successive times every other day in two newspapers of general circulation, one in Tagalog and one in English, in the Philippines,

and both in English in Japan, by the Commission and the Mission, respectively. As required herein, the Commission shall publish each and every procurement order within one week after its issuance, and the Mission, within one week after receipt of the procurement order. Any procurement order which does not wholly comply with all of the above requirements shall ipso facto be considered null and void, if such non-compliance has been through the fault or negligence of the applicant end-user. After the procurement order for reparations intended for a specific end-user has been properly issued in accordance with the foregoing, such procurement order may not be revoked or suspended except when the end-user in whose favor the procurement order has been issued is adjudged, after due investigation wherein he has been given the opportunity to be heard and represented by counsel, to be disqualified or found guilty of fraud in connection with his application under this Act: *Provided*, That pending final decision, the procurement of the goods, except actual delivery thereof to the end-user concerned, shall not be suspended: *Provided, however*, That an end-user who has been found disqualified by the Commission may appeal to the President within thirty days from the receipt of the Commission's decision. The decision of the President which must be made not later than thirty days after the submission of the appeal to him, shall be final, and shall become effective upon receipt thereof by the end-user concerned. In case the end-user fails to appeal, the decision of the Commission shall become final immediately after the lapse of the period for appeal. A party who has been adjudged disqualified shall forfeit the down payment without prejudice to any action, criminal or otherwise, which may be taken against him by the proper government agency. The Commission is hereby required to render a decision on any complaint submitted to it regarding the qualification of an end-user within ninety days from the date of the formal submission of such complaint in writing."

SEC. 2. The following portions of the various paragraphs of Section 12 of the same law, as indicated hereunder, are hereby further amended to read as follows:

"SEC. 12. Terms of Sale.—Capital goods and complementary services intended for government projects, irrespective of the classification of the project, shall be transferred to the agencies concerned without cost; *Provided*, That said agencies shall pay in cash a service fee of two (2) per cent of the cost of the goods and/or services, and all incidental charges incurred in connection with the procurement and delivery of such goods and/or services, computed at the current rate of exchange of the peso to the U.S. dollar prevailing at the time of payment. The government agencies concerned shall enter in their books of accounts the peso F. O. B. value of the goods and/or services received by them computed at the current rate of exchange of the peso to the U.S. dollar prevailing at the time of delivery, as follows:

1. National government offices, agencies, institutions and/or instrumentalities depending solely on appropriations from the National Assembly for their operating expenses shall enter the peso F. O. B. value as additional appropriation for them.
2. National government offices, agencies, institutions and/or instrumentalities with revolving funds provided by law shall enter